

FIRST REGULAR SESSION  
[PERFECTED]  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 894**  
**102ND GENERAL ASSEMBLY**

2041H.02P

DANA RADEMAN MILLER, Chief Clerk

---

**AN ACT**

To repeal sections 144.020, 144.070, 307.380, 407.812, and 407.828, RSMo, and to enact in lieu thereof five new sections relating to motor vehicles.

---

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 144.020, 144.070, 307.380, 407.812, and 407.828, RSMo, are  
2 repealed and five new sections enacted in lieu thereof, to be known as sections 144.020,  
3 144.070, 307.380, 407.812, and 407.828, to read as follows:

144.020. 1. A tax is hereby levied and imposed for the privilege of titling new and  
2 used motor vehicles, trailers, boats, and outboard motors purchased or acquired for use on the  
3 highways or waters of this state which are required to be titled under the laws of the state of  
4 Missouri and, except as provided in subdivision (9) of this subsection, upon all sellers for the  
5 privilege of engaging in the business of selling tangible personal property or rendering  
6 taxable service at retail in this state. The rate of tax shall be as follows:

7 (1) Upon every retail sale in this state of tangible personal property, excluding motor  
8 vehicles, trailers, motorcycles, mopeds, motortricycles, boats and outboard motors required to  
9 be titled under the laws of the state of Missouri and subject to tax under subdivision (9) of this  
10 subsection, a tax equivalent to four percent of the purchase price paid or charged, or in case  
11 such sale involves the exchange of property, a tax equivalent to four percent of the  
12 consideration paid or charged, including the fair market value of the property exchanged at  
13 the time and place of the exchange, except as otherwise provided in section 144.025;

14 (2) A tax equivalent to four percent of the amount paid for admission and seating  
15 accommodations, or fees paid to, or in any place of amusement, entertainment or recreation,  
16 games and athletic events, except amounts paid for any instructional class;

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (3) A tax equivalent to four percent of the basic rate paid or charged on all sales of  
18 electricity or electrical current, water and gas, natural or artificial, to domestic, commercial or  
19 industrial consumers;

20 (4) (a) A tax equivalent to four percent on the basic rate paid or charged on all sales  
21 of local and long distance telecommunications service to telecommunications subscribers and  
22 to others through equipment of telecommunications subscribers for the transmission of  
23 messages and conversations and upon the sale, rental or leasing of all equipment or services  
24 pertaining or incidental thereto; except that, the payment made by telecommunications  
25 subscribers or others, pursuant to section 144.060, and any amounts paid for access to the  
26 internet or interactive computer services shall not be considered as amounts paid for  
27 telecommunications services;

28 (b) If local and long distance telecommunications services subject to tax under this  
29 subdivision are aggregated with and not separately stated from charges for  
30 telecommunications service or other services not subject to tax under this subdivision,  
31 including, but not limited to, interstate or international telecommunications services, then the  
32 charges for nontaxable services may be subject to taxation unless the telecommunications  
33 provider can identify by reasonable and verifiable standards such portion of the charges not  
34 subject to such tax from its books and records that are kept in the regular course of business,  
35 including, but not limited to, financial statement, general ledgers, invoice and billing systems  
36 and reports, and reports for regulatory tariffs and other regulatory matters;

37 (c) A telecommunications provider shall notify the director of revenue of its intention  
38 to utilize the standards described in paragraph (b) of this subdivision to determine the charges  
39 that are subject to sales tax under this subdivision. Such notification shall be in writing and  
40 shall meet standardized criteria established by the department regarding the form and format  
41 of such notice;

42 (d) The director of revenue may promulgate and enforce reasonable rules and  
43 regulations for the administration and enforcement of the provisions of this subdivision. Any  
44 rule or portion of a rule, as that term is defined in section 536.010, that is created under the  
45 authority delegated in this section shall become effective only if it complies with and is  
46 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section  
47 and chapter 536 are nonseverable and if any of the powers vested with the general assembly  
48 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a  
49 rule are subsequently held unconstitutional, then the grant of rulemaking authority and any  
50 rule proposed or adopted after August 28, 2019, shall be invalid and void;

51 (5) A tax equivalent to four percent of the basic rate paid or charged for all sales of  
52 services for transmission of messages of telegraph companies;

53 (6) A tax equivalent to four percent on the amount of sales or charges for all rooms,  
54 meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house,  
55 drugstore, dining car, tourist cabin, tourist camp or other place in which rooms, meals or  
56 drinks are regularly served to the public. The tax imposed under this subdivision shall not  
57 apply to any automatic mandatory gratuity for a large group imposed by a restaurant when  
58 such gratuity is reported as employee tip income and the restaurant withholds income tax  
59 under section 143.191 on such gratuity;

60 (7) A tax equivalent to four percent of the amount paid or charged for intrastate  
61 tickets by every person operating a railroad, sleeping car, dining car, express car, boat,  
62 airplane and such buses and trucks as are licensed by the division of motor carrier and railroad  
63 safety of the department of economic development of Missouri, engaged in the transportation  
64 of persons for hire;

65 (8) A tax equivalent to four percent of the amount paid or charged for rental or lease  
66 of tangible personal property, provided that if the lessor or renter of any tangible personal  
67 property had previously purchased the property under the conditions of sale at retail or leased  
68 or rented the property and the tax was paid at the time of purchase, lease or rental, the lessor,  
69 sublessor, renter or subrenter shall not apply or collect the tax on the subsequent lease,  
70 sublease, rental or subrental receipts from that property. The purchase, rental or lease of  
71 motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats, and outboard motors  
72 shall be taxed and the tax paid as provided in this section and section 144.070. In no event  
73 shall the rental or lease of boats and outboard motors be considered a sale, charge, or fee to,  
74 for or in places of amusement, entertainment or recreation nor shall any such rental or lease  
75 be subject to any tax imposed to, for, or in such places of amusement, entertainment or  
76 recreation. Rental and leased boats or outboard motors shall be taxed under the provisions of  
77 the sales tax laws as provided under such laws for motor vehicles and trailers. Tangible  
78 personal property which is exempt from the sales or use tax under section 144.030 upon a sale  
79 thereof is likewise exempt from the sales or use tax upon the lease or rental thereof;

80 (9) A tax equivalent to four percent of the purchase price, as defined in section  
81 144.070, of new and used motor vehicles, trailers, boats, and outboard motors purchased or  
82 acquired for use on the highways or waters of this state which are required to be registered  
83 under the laws of the state of Missouri. This tax is imposed on the person titling such  
84 property, and shall be paid according to the procedures in section **144.070 or** 144.440.

85 2. All tickets sold which are sold under the provisions of this chapter which are  
86 subject to the sales tax shall have printed, stamped or otherwise endorsed thereon, the words  
87 "This ticket is subject to a sales tax."

144.070. 1. At the time the owner of any new or used motor vehicle, trailer, boat, or  
2 outboard motor which was acquired in a transaction subject to sales tax under the Missouri

3 sales tax law makes application to the director of revenue for an official certificate of title and  
4 the registration of the motor vehicle, trailer, boat, or outboard motor as otherwise provided by  
5 law, the owner shall present to the director of revenue evidence satisfactory to the director of  
6 revenue showing the purchase price exclusive of any charge incident to the extension of credit  
7 paid by or charged to the applicant in the acquisition of the motor vehicle, trailer, boat, or  
8 outboard motor, or that no sales tax was incurred in its acquisition, and if sales tax was  
9 incurred in its acquisition, the applicant shall pay or cause to be paid to the director of revenue  
10 the sales tax provided by the Missouri sales tax law in addition to the registration fees now or  
11 hereafter required according to law, and the director of revenue shall not issue a certificate of  
12 title for any new or used motor vehicle, trailer, boat, or outboard motor subject to sales tax as  
13 provided in the Missouri sales tax law until the tax levied for the sale of the same under  
14 sections 144.010 to 144.510 has been paid as provided in this section or is registered under  
15 the provisions of subsection 5 of this section.

16       2. As used in subsection 1 of this section, the term "purchase price" shall mean the  
17 total amount of the contract price agreed upon between the seller and the applicant in the  
18 acquisition of the motor vehicle, trailer, boat, or outboard motor, regardless of the medium of  
19 payment therefor.

20       3. In the event that the purchase price is unknown or undisclosed, or that the evidence  
21 thereof is not satisfactory to the director of revenue, the same shall be fixed by appraisalment  
22 by the director.

23       4. The director of the department of revenue shall endorse upon the official certificate  
24 of title issued by the director upon such application an entry showing that such sales tax has  
25 been paid or that the motor vehicle, trailer, boat, or outboard motor represented by such  
26 certificate is exempt from sales tax and state the ground for such exemption.

27       5. Any person, company, or corporation engaged in the business of renting or leasing  
28 motor vehicles, trailers, boats, or outboard motors, which are to be used exclusively for rental  
29 or lease purposes, and not for resale, may apply to the director of revenue for authority to  
30 operate as a leasing or rental company and pay an annual fee of two hundred fifty dollars for  
31 such authority. Any company approved by the director of revenue may pay the tax due on  
32 any motor vehicle, trailer, boat, or outboard motor as required in section 144.020 at the time  
33 of registration thereof or in lieu thereof may pay a sales tax as provided in sections 144.010,  
34 144.020, 144.070 and 144.440. A sales tax shall be charged to and paid by a leasing company  
35 which does not exercise the option of paying in accordance with section 144.020, on the  
36 amount charged for each rental or lease agreement while the motor vehicle, trailer, boat, or  
37 outboard motor is domiciled in this state. Any motor vehicle, trailer, boat, or outboard motor  
38 which is leased as the result of a contract executed in this state shall be presumed to be  
39 domiciled in this state.

40           6. Every applicant to be a registered fleet owner as described in subsections 6 to 10 of  
41 section 301.032 shall furnish with the application to operate as a registered fleet owner a  
42 corporate surety bond or irrevocable letter of credit, as defined in section 400.5-102, issued  
43 by any state or federal financial institution in the penal sum of one hundred thousand dollars,  
44 on a form approved by the department. The bond or irrevocable letter of credit shall be  
45 conditioned upon the registered fleet owner complying with the provisions of any statutes  
46 applicable to registered fleet owners, and the bond shall be an indemnity for any loss  
47 sustained by reason of the acts of the person bonded when such acts constitute grounds for the  
48 suspension or revocation of the registered fleet owner license. The bond shall be executed in  
49 the name of the state of Missouri for the benefit of all aggrieved parties or the irrevocable  
50 letter of credit shall name the state of Missouri as the beneficiary; except that, the aggregate  
51 liability of the surety or financial institution to the aggrieved parties shall, in no event, exceed  
52 the amount of the bond or irrevocable letter of credit. The proceeds of the bond or irrevocable  
53 letter of credit shall be paid upon receipt by the department of a final judgment from a  
54 Missouri court of competent jurisdiction against the principal and in favor of an aggrieved  
55 party.

56           7. Any corporation may have one or more of its divisions separately apply to the  
57 director of revenue for authorization to operate as a leasing company, provided that the  
58 corporation:

59           (1) Has filed a written consent with the director authorizing any of its divisions to  
60 apply for such authority;

61           (2) Is authorized to do business in Missouri;

62           (3) Has agreed to treat any sale of a motor vehicle, trailer, boat, or outboard motor  
63 from one of its divisions to another of its divisions as a sale at retail;

64           (4) Has registered under the fictitious name provisions of sections 417.200 to 417.230  
65 each of its divisions doing business in Missouri as a leasing company; and

66           (5) Operates each of its divisions on a basis separate from each of its other divisions.  
67 However, when the transfer of a motor vehicle, trailer, boat or outboard motor occurs within a  
68 corporation which holds a license to operate as a motor vehicle or boat dealer pursuant to  
69 sections 301.550 to 301.573 the provisions in subdivision (3) of this subsection shall not  
70 apply.

71           8. If the owner of any motor vehicle, trailer, boat, or outboard motor desires to charge  
72 and collect sales tax as provided in this section, the owner shall make application to the  
73 director of revenue for a permit to operate as a motor vehicle, trailer, boat, or outboard motor  
74 leasing company. The director of revenue shall promulgate rules and regulations determining  
75 the qualifications of such a company, and the method of collection and reporting of sales tax  
76 charged and collected. Such regulations shall apply only to owners of motor vehicles, trailers,

77 boats, or outboard motors, electing to qualify as motor vehicle, trailer, boat, or outboard  
78 motor leasing companies under the provisions of subsection 5 of this section, and no motor  
79 vehicle renting or leasing, trailer renting or leasing, or boat or outboard motor renting or  
80 leasing company can come under sections 144.010, 144.020, 144.070 and 144.440 unless all  
81 motor vehicles, trailers, boats, and outboard motors held for renting and leasing are included.

82 9. Any person, company, or corporation engaged in the business of renting or leasing  
83 three thousand five hundred or more motor vehicles which are to be used exclusively for  
84 rental or leasing purposes and not for resale, and that has applied to the director of revenue for  
85 authority to operate as a leasing company may also operate as a registered fleet owner as  
86 prescribed in section 301.032.

87 10. Beginning July 1, 2010, any motor vehicle dealer licensed under section 301.560  
88 engaged in the business of selling motor vehicles or trailers ~~may~~ **shall** apply to the director  
89 of revenue for authority to collect and remit the sales tax required under this section on all  
90 motor vehicles sold by the motor vehicle dealer. A motor vehicle dealer receiving authority to  
91 collect and remit the tax is subject to all provisions under sections 144.010 to 144.525. Any  
92 motor vehicle dealer authorized to collect and remit sales taxes on motor vehicles under this  
93 subsection shall be entitled to deduct and retain an amount equal to two percent of the motor  
94 vehicle sales tax pursuant to section 144.140. Any amount of the tax collected under this  
95 subsection that is retained by a motor vehicle dealer pursuant to section 144.140 shall not  
96 constitute state revenue. In no event shall revenues from the general revenue fund or any  
97 other state fund be utilized to compensate motor vehicle dealers for their role in collecting and  
98 remitting sales taxes on motor vehicles. In the event this subsection or any portion thereof is  
99 held to violate Article IV, Section 30(b) of the Missouri Constitution, no motor vehicle dealer  
100 shall be authorized to collect and remit sales taxes on motor vehicles under this section. No  
101 motor vehicle dealer shall seek compensation from the state of Missouri or its agencies if a  
102 court of competent jurisdiction declares that the retention of two percent of the motor vehicle  
103 sales tax is unconstitutional and orders the return of such revenues.

104 **11. (1) Every motor vehicle dealer licensed under section 301.560, as soon as**  
105 **technologically possible following the development and maintenance of a modernized,**  
106 **integrated system for the titling of vehicles, issuance and renewal of vehicle**  
107 **registrations, issuance and renewal of driver's licenses and identification cards, and**  
108 **perfection and release of liens and encumbrances on vehicles, to be funded by the Motor**  
109 **Vehicle Administration Technology Fund as created in section 301.558, shall collect and**  
110 **remit the sales tax required under this section on all motor vehicles that such dealer**  
111 **sells. In collecting and remitting this sales tax, motor vehicle dealers shall be subject to**  
112 **all applicable provisions under sections 144.010 to 144.527.**

113           **(2) The director of revenue may promulgate all necessary rules and regulations**  
114 **for the administration of this subsection. Any rule or portion of a rule, as that term is**  
115 **defined in section 536.010, that is created under the authority delegated in this**  
116 **subsection shall become effective only if it complies with and is subject to all of the**  
117 **provisions of chapter 536 and, if applicable, section 536.028. This subsection and**  
118 **chapter 536 are nonseverable and if any of the powers vested with the general assembly**  
119 **pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul**  
120 **a rule are subsequently held unconstitutional, then the grant of rulemaking authority**  
121 **and any rule proposed or adopted after August 28, 2023, shall be invalid and void.**

307.380. 1. Every vehicle of the type required to be inspected upon having been  
2 involved in an accident and when so directed by a police officer must be inspected and an  
3 official certificate of inspection and approval, sticker, seal or other device be obtained for  
4 such vehicle before it is again operated on the highways of this state.

5           **2. At the seller's expense every used motor vehicle of the type required to be**  
6 **inspected by section 307.350 shall immediately prior to sale be fully inspected regardless of**  
7 **any current certificate of inspection and approval, and an appropriate new certificate of**  
8 **inspection and approval, sticker, seal or other device shall be obtained no more than sixty**  
9 **days prior to the date of sale. Such inspection shall not be required for a motor vehicle**  
10 **having less than forty thousand miles for the three-year period following the model year**  
11 **of manufacture. The seller shall present the certificate of inspection and approval to the**  
12 **buyer at the point of sale and the buyer shall be required to submit the certificate of**  
13 **inspection when applying for registration of the vehicle.**

14           ~~3.~~ 3. Nothing contained in the provisions of this section shall be construed to  
15 prohibit a dealer or any other person from selling a vehicle without a certificate of inspection  
16 and approval if the vehicle is sold for junk, salvage, or for rebuilding, or for vehicles sold at  
17 public auction or from dealer to dealer. The purchaser of any vehicle which is purchased for  
18 junk, salvage, or for rebuilding shall give to the seller an affidavit, on a form prescribed by the  
19 superintendent of the Missouri state highway patrol, stating that the vehicle is being  
20 purchased for one of the reasons stated herein. No vehicle of the type required to be inspected  
21 by section 307.350 which is purchased as junk, salvage, or for rebuilding shall again be  
22 registered in this state until the owner has submitted the vehicle for inspection and obtained  
23 an official certificate of inspection and approval, sticker, seal or other device for such vehicle.

24           ~~4.~~ 4. Notwithstanding the provisions of section 307.390, violation of this section  
25 shall be deemed an infraction.

407.812. 1. Any franchisor obtaining or renewing its license after August 28, 2010,  
2 shall be bound by the provisions of the MVFP act and shall comply with it, and no franchise  
3 agreement made, entered, modified, or renewed after August 28, 2010, shall avoid the

4 requirements of the MVFP act, or violate its provisions, and no franchise agreement shall be  
5 performed after the date the franchisor's license is issued or renewed in such a manner that the  
6 franchisor avoids or otherwise does not conform or comply with the requirements of the  
7 MVFP act. Notwithstanding the effective date of any franchise agreement, all franchisor  
8 licenses and renewals thereof are issued subject to all provisions of the MVFP act and chapter  
9 301 and any regulations in effect upon the date of issuance, as well as all future provisions of  
10 the MVFP act and chapter 301 and any regulations which may become effective during the  
11 term of the license.

12       2. The provisions of the MVFP act shall apply to each franchise that a franchisor,  
13 manufacturer, importer, or distributor has with a franchisee and all agreements between a  
14 franchisee and a common entity or any person that is controlled by a franchisor.

15       **3. No dealer or manufacturer licensed in this state pursuant to the provisions of**  
16 **sections 301.550 to 301.573 shall allow any subsidiary or related entity to engage in the**  
17 **business of selling motor vehicles, except as otherwise permitted by law. Any dealer or**  
18 **manufacturer licensed in this state shall have standing to enforce the provisions of this**  
19 **subsection provided that a franchise relationship exists between the parties.**

20       **4. No entity controlling, controlled by, or sharing a common parent entity or**  
21 **sibling entity with a licensed dealer or manufacturer, shall engage in the business of**  
22 **selling motor vehicles to retail consumers in this state, except as permitted by sections**  
23 **301.550 to 301.575 and the MVFP act. Any dealer or manufacturer licensed in this state**  
24 **shall have standing to enforce the provisions of this subsection.**

25       **5. No dealer or manufacturer, that is not licensed in this state pursuant to**  
26 **sections 301.550 to 301.575 shall engage in the business of selling motor vehicles to retail**  
27 **consumers in this state, except as permitted by sections 301.550 to 301.575 and the**  
28 **MVFP act. Any dealer or manufacturer licensed in this state shall have standing to**  
29 **enforce the provisions of this subsection, provided that a franchise relationship exists**  
30 **between the parties.**

31       **6. A manufacturer, importer, or distributor may engage in the business of selling**  
32 **motor vehicles to retail consumers in this state from a dealership if the manufacturer,**  
33 **importer, or distributor owned the dealership and held a license for the dealership on or**  
34 **before January 1, 2024, provided that the ownership or controlling interest of such**  
35 **dealership is not transferred, sold, or conveyed to another person or entity required to**  
36 **be licensed under this chapter.**

407.828. 1. Notwithstanding any provision in a franchise to the contrary, each  
2 franchisor shall specify in writing to each of its franchisees in this state the franchisee's  
3 obligations for preparation, delivery, and warranty service on its products. The franchisor  
4 shall fairly and reasonably compensate the franchisee for preparation, delivery, and warranty

5 service required of the franchisee by the franchisor. The franchisor shall provide the  
6 franchisee with the schedule of compensation to be paid to the franchisee for parts, labor, and  
7 service, and the time allowance for the performance of the labor and service for the  
8 franchisee's obligations for preparation, delivery, and warranty service.

9         2. The schedule of compensation shall include reasonable compensation for  
10 diagnostic work, as well as repair service and labor for the franchisee to meet its obligations  
11 for preparation, delivery, and warranty service. The schedule shall also include reasonable  
12 and adequate time allowances for the diagnosis and performance of preparation, delivery, and  
13 warranty service to be performed in a careful and professional manner. In the determination  
14 of what constitutes reasonable compensation for labor and service pursuant to this section, the  
15 principal factor to be given consideration shall be the prevailing wage rates being charged for  
16 similar labor and service by ~~[franchisees in the market in which the franchisee is doing~~  
17 ~~business, and in no event shall the compensation of a franchisee for labor and service be less~~  
18 ~~than the rates charged by]~~ the franchisee for similar labor and service to retail customers for  
19 nonwarranty labor and service~~[-, provided that such rates are reasonable]~~. The primary factor  
20 in determining ~~[a fair and]~~ reasonable compensation for parts under this section shall be the  
21 ~~[prevailing amount charged for similar parts by other same line make franchisees in the~~  
22 ~~market in which the franchisee is doing business and the fair and reasonable compensation for~~  
23 ~~parts shall not be less than the]~~ amount charged by the franchisee for similar parts to retail  
24 customers for nonwarranty parts~~[-, provided that such rates are reasonable. If another same~~  
25 ~~line make franchisee is not available within the market, then the prevailing amount charged~~  
26 ~~for similar parts by other franchisees in the market shall be used as the primary factor]~~.

27         3. A franchisor shall perform all warranty obligations, including recall notices;  
28 include in written notices of franchisor recalls to new motor vehicle owners and franchisees  
29 the expected date by which necessary parts and equipment will be available to franchisees for  
30 the correction of the defects; and ~~[reasonably]~~ compensate any of the franchisees in this state  
31 for repairs required by the recall. **[Reasonable]** Compensation for parts~~;~~ **and** labor~~[-, and~~  
32 **service]** **for recall repairs** shall be determined under subsection 2 of this section.

33         4. No franchisor shall require a franchisee to submit a claim authorized under this  
34 section sooner than thirty days after the franchisee completes the preparation, delivery, or  
35 warranty service authorizing the claim for preparation, delivery, or warranty service. All  
36 claims made by a franchisee under this section shall be paid within thirty days after their  
37 approval. All claims shall be either approved or disapproved by the franchisor within thirty  
38 days after their receipt on a proper form generally used by the franchisor and containing the  
39 usually required information therein. Any claims not specifically disapproved in writing  
40 within thirty days after the receipt of the form shall be considered to be approved and

41 payment shall be made within fifteen days thereafter. A franchisee shall not be required to  
42 maintain defective parts for more than thirty days after submission of a claim.

43 5. A franchisor shall compensate the franchisee for franchisor-sponsored sales or  
44 service promotion events, including but not limited to, rebates, programs, or activities in  
45 accordance with established written guidelines for such events, programs, or activities, which  
46 guidelines shall be provided to each franchisee.

47 6. No franchisor shall require a franchisee to submit a claim authorized under  
48 subsection 5 of this section sooner than thirty days after the franchisee becomes eligible to  
49 submit the claim. All claims made by a franchisee pursuant to subsection 5 of this section for  
50 promotion events, including but not limited to rebates, programs, or activities shall be paid  
51 within ten days after their approval. All claims shall be either approved or disapproved by the  
52 franchisor within thirty days after their receipt on a proper form generally used by the  
53 franchisor and containing the usually required information therein. Any claim not  
54 specifically disapproved in writing within thirty days after the receipt of this form shall be  
55 considered to be approved and payment shall be made within ~~ten~~ **fifteen** days.

56 7. In calculating the retail rate customarily charged by the franchisee for parts,  
57 service, and labor, the following work shall not be included in the calculation:

58 (1) Repairs for franchisor, manufacturer, or distributor special events, specials, or  
59 promotional discounts for retail customer repairs;

60 (2) Parts sold at wholesale;

61 (3) Engine assemblies and transmission assemblies;

62 (4) Routine maintenance not covered under any retail customer warranty, such as  
63 fluids, filters, and belts not provided in the course of repairs;

64 (5) Nuts, bolts, fasteners, and similar items that do not have an individual part  
65 number;

66 (6) Tires; and

67 (7) Vehicle reconditioning.

68 8. If a franchisor, manufacturer, importer, or distributor furnishes a part or component  
69 to a franchisee, at no cost, to use in performing repairs under a recall, campaign service  
70 action, or warranty repair, the franchisor shall compensate the franchisee for the part or  
71 component in the same manner as warranty parts compensation under this section by  
72 compensating the franchisee at the average markup on the cost for the part or component as  
73 listed in the price schedule of the franchisor, manufacturer, importer, or distributor, less the  
74 cost for the part or component. **This subsection shall not apply to entire engine  
75 assemblies, propulsion engine assemblies, including electric vehicle batteries, or entire  
76 transmission assemblies.**

77 9. A franchisor shall not require a franchisee to establish the retail rate customarily  
78 charged by the franchisee for parts, service, or labor by an unduly burdensome or time-  
79 consuming method or by requiring information that is unduly burdensome or time consuming  
80 to provide, including, but not limited to, part-by-part or transaction-by-transaction  
81 calculations. A franchisee shall not request a franchisor to approve a different labor rate  
82 or parts rate more than twice in one calendar year.

83 10. If a franchisee submits any claim under this section to a franchisor that is  
84 incomplete, inaccurate, or lacking any information usually required by the franchisor, then the  
85 franchisor shall promptly notify the franchisee, and the time limit to submit the claim shall be  
86 extended for a reasonable length of time, not less than five business days following notice by  
87 the franchisor to the franchisee, for the franchisee to provide the complete, accurate, or  
88 lacking information to the franchisor.

89 11. (1) A franchisor may only audit warranty, sales, or incentive claims and charge-  
90 back to the franchisee unsubstantiated claims for a period of twelve months following  
91 payment, subject to all of the provisions of this section. Furthermore, if the franchisor has  
92 good cause to believe that a franchisee has submitted fraudulent claims, then the franchisor  
93 may only audit suspected fraudulent warranty, sales, or incentive claims and charge-back to  
94 the franchisee fraudulent claims for a period of two years following payment, subject to all  
95 provisions of this section.

96 (2) A franchisor shall not require documentation for warranty, sales, or incentive  
97 claims more than twelve months after the claim was paid.

98 (3) Prior to requiring any charge-back, reimbursement, or credit against a future  
99 transaction arising out of an audit, the franchisor shall submit written notice to the franchisee  
100 along with a copy of its audit and the detailed reason for each intended charge-back,  
101 reimbursement, or credit.

102 12. A franchisee may file a complaint with the administrative hearing commission  
103 **pursuant to section 407.822** within ~~[thirty]~~ **sixty** days after receipt of any ~~[such]~~ written  
104 notice ~~[challenging such action]~~ **by a franchisor of any adverse decision on any claim for**  
105 **reimbursement submitted pursuant to this section, including but not limited to specific**  
106 **claims for reimbursement in individual warranty repair transactions, and requests for**  
107 **an increase in labor or parts rate.** If a complaint is filed within the ~~[thirty]~~ **sixty** days, then  
108 the ~~[charge-back, reimbursement, or credit]~~ **denial or reduction of reimbursement, denial**  
109 **of a request for an increase in labor or parts rate, charge-back, or other determination**  
110 **by a franchisor which is adverse to a franchisee** shall be stayed pending a hearing and  
111 determination of the matter under section 407.822. **The franchisor shall file an answer to**  
112 **the complaint within thirty days after service of the complaint. If, following a hearing**  
113 **which shall be held within sixty days following service of the franchisor's answer, the**

114 administrative hearing commission determines that ~~[any portion of the charge-back,~~  
115 ~~reimbursement, or credit is improper, then that portion of the charge-back, reimbursement,~~  
116 ~~or credit shall be void and not allowed]~~ **a franchisor has violated any requirements of this**  
117 **section, then the denial or reduction of reimbursement, denial of a request for an**  
118 **increase in labor or parts rate, or charge-back shall be void and the franchisor shall,**  
119 **within fifteen days of the commission's order, fairly compensate the franchisee as**  
120 **required by the provisions of this section. Section 407.835 shall apply to proceedings**  
121 **pursuant to this section.**

✓